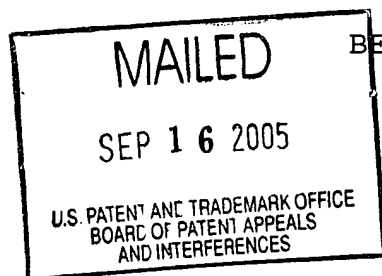


UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte STUART A. FRASER,  
HOWARD LUTNICK and PAUL BIJOY

Application No. 09/859,661

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on July 28, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

Appellants filed an amendment on September 9, 2002. A review of the specification reveals that the amendment has not been completely entered.

Appellants filed the following Information Disclosure Statement (IDS's), which have not been responded to by the examiner:

- (a) IDS filed on July 30, 2002
- (b) IDS filed on June 27, 2003
- (c) IDS filed on October 6, 2003

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It is not clear from the record whether the examiner considered these statements, or whether the examiner has notified appellants of why their submissions did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98.

Furthermore, appellants filed a Declaration on February 22, 2002. There is no indication on the record as to whether or not the examiner has considered appellants' Declaration.

Finally, appellants filed an Appeal Brief in compliance with the new rules under 37 CFR § 41.37, which became effective September 13, 2004. However, the examiner responded to appellants' Brief by mailing an Examiner's Answer on January 7, 2005. A review of the file reveals that the Examiner's Answer does not contain the corresponding required paragraphs under the new rule, namely, the "Summary of Claimed Subject Matter," "Claims Appendix," "Evidence Relied Upon" and "Related Proceedings Appendix."

Accordingly, it is

ORDERED that the application is returned to the examiner for resolution of the following issues:

(1) to complete entry the amendment filed on September 9, 2002, and written notification to appellants of the entry of said amendment;

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(2) to consider the IDS's filed on July 30, 2002, June 27, 2003 and October 6, 2003, as well as written notification to appellants of such entry;

(3) to consider appellants' Declaration filed on February 22, 2002, and written notification to appellants of such consideration;

(4) to vacate the Examiner's Answer mailed on January 7, 2005 and submit a revised Examiner's Answer in accordance with the new rules effective September 13, 2004; and

(5) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By: 

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CRF/clm/mh